

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

**\*\*FILED\*\***  
**16 JULY 2021**  
**U.S. EPA - REGION IX**

In the matter of:	)	U.S. EPA Docket No.
	)	
	)	RCRA 09-2021-0037
Chevron U.S.A. Inc., a Pennsylvania Corporation,	)	
through its division Chevron Products Company	)	
	)	
Respondent.	)	
	)	
Chevron Montebello Terminal	)	Proceeding under Section 3008(a)
601 South Vail Avenue	)	of the Resource Conservation and
Montebello, California 90640	)	Recovery Act, as amended,
	)	42 U.S.C. Section 6928(a)

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**CONSENT AGREEMENT**

**A. PRELIMINARY STATEMENT**

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, as codified at 40 Code of Federal Regulations ("C.F.R.") Part 22 ("Consolidated Rules").
2. Complainant is the United States Environmental Protection Agency, Region IX ("EPA").
3. Respondent is Chevron U.S.A. Inc., a Pennsylvania Corporation, through its division Chevron Products Company, the owner/operator of the facility located at 601 South Vail Avenue, Montebello, California ("Montebello Facility").
4. This Consent Agreement and Final Order ("CA/FO"), pursuant to 40 C.F.R. §§ 22.13 and 22.18, simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent violated state regulations adopted pursuant to the approved California hazardous waste management program.
5. The Parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their respective interest and in the public interest.

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**B. STATUTORY AND REGULATORY FRAMEWORK**

6. Subtitle C of RCRA requires the EPA Administrator to promulgate regulations establishing a hazardous waste management program. Section 3006 of RCRA, 42 U.S.C. § 6926, provides, *inter alia*, that authorized state hazardous waste management programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
7. The State of California (“State”) received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271, on August 1, 1992. The authorized hazardous waste program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. §§ 66001 *et seq.* The State has been authorized for all the hazardous waste management regulations referenced in this CA/FO.
8. A violation of California’s authorized hazardous waste program, found at Health & Safety Code §§ 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California’s authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.

**C. EPA’S GENERAL ALLEGATIONS**

9. Respondent owns and operates the Montebello Facility.
10. On October 22, 2019, EPA conducted a compliance evaluation inspection at the Montebello Facility.
11. The Montebello Facility is a petroleum bulk storage terminal which receives gasoline and diesel fuel by pipeline from the Chevron El Segundo Refinery, and blends them into various petroleum products. Products are loaded onto commercial trucks at the tanker truck loading rack. The Montebello Facility also operates a tank farm with ten aboveground storage tanks to store products. The Montebello Facility is a large quantity generator of hazardous wastes. Respondent’s EPA ID No. is CAT 080 010 838.
12. At all times relevant to this CAFO, Respondent operated the Montebello Facility subject to Chapter 6.7 of the California Health and Safety Code, Underground Storage of Hazardous Substances, and the regulations promulgated thereunder, commencing at Title 23, Division 3, Chapter 16, §§ 2610 *et. seq.*

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13. At all times relevant to this CAFO, Respondent operated the Montebello Facility subject to a Title V permit issued by the South Coast Air Quality Management District.
14. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection, EPA alleges that Respondent violated California Health & Safety Code §§ 25100 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States.
15. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders assessing a civil penalty and/or requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921 *et seq.*
16. The Administrator has delegated enforcement authority under Section 3008 of RCRA, 42 U.S.C. § 6928, to the EPA Regional Administrators, with delegation 8-9-A, last revised February 4, 2016. The Regional Administrator, EPA Region IX, in turn, redelegated that authority to the EPA signatory below.
17. Respondent is a “person” as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].<sup>1</sup>
18. Respondent is the “owner” of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
19. Respondent is the “operator” of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
20. Respondent is a “generator” of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
21. Respondent is or has been engaged in “treatment,” “storage,” or “disposal” of “hazardous waste” as defined in 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* 40 C.F.R. §§ 260.10 and 261.3].
22. At the Montebello Facility, Respondent generates and accumulates, or has generated and accumulated, “hazardous waste” as defined in California Health & Safety Code § 25117, and 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* RCRA § 1004(5), and 40 C.F.R. §§ 260.10 and 261.3]. These hazardous wastes include but are not limited to the following hazardous waste codes: D001 and D018.

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<sup>1</sup> All citations to the “C.C.R.” refer to Division 4.5 of Title 22 of the current California Code of Regulations. EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States. As a convenience, corresponding Federal citations are provided in brackets.

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**D. ALLEGED VIOLATIONS**

**COUNT I**

**Failure to Conduct Assessments and Maintain Certifications for  
Tanks Storing Hazardous Waste (22 C.C.R. § 66265.192)**

23. Paragraphs 1 through 22 above are incorporated herein by this reference as if they were set forth here in their entirety.
24. 22 C.C.R. § 66265.192(a) requires that owners or operators of new tank systems or components must obtain a written assessment reviewed and certified by an independent, qualified, professional engineer, registered in California attesting that the system has sufficient structural integrity, is acceptable for the transferring, storing and treating of hazardous waste, and that the tanks and containment system are suitably designed to achieve applicable RCRA requirements. This requirement became effective on July 1, 1991 [*See also* 40 C.F.R. § 265.192].
25. 22 C.C.R. § 66265.192(g) requires that owners or operators of new tank systems or components must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system that the tank system was properly designed and installed.
26. At the time of EPA's Inspection, Respondent stored oily wastes generated by the main truck and trailer loading rack in underground storage tanks ("USTs") 92, 93, and 94.
27. UST 92 was installed in July 2010. UST 93 was installed in January 1987 but was substantially modified with the addition of sedimentation trap and associated piping in approximately 1993. UST 94 was installed in January 2002.
28. After EPA's inspection, the EPA Inspector reviewed storage and disposal data for USTs 92, 93, and 94 at the Montebello Facility between 2015 and 2019.
29. EPA's review of the Montebello Facility records indicated that the Montebello Facility periodically pumped oily wastes in USTs 92, 93, and 94 into a truck for offsite disposal as a RCRA hazardous waste as D001 (ignitability characteristic) and D018 (benzene toxicity characteristic) between 2015 and 2019.
30. EPA's review of the Montebello Facility records indicated that the Montebello Facility failed to perform assessments of USTs 92, 93, and 94 for their structural integrity and suitability for transferring and storing hazardous wastes when they were installed in 2010, 1987, and 2002, respectively.

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31. EPA's review of the Montebello Facility records indicated that the Montebello Facility failed to obtain and maintain written statements certifying that USTs 92, 93, and 94 were properly designed and installed.
32. Therefore, EPA alleges that Respondent failed to perform assessments of hazardous waste tanks for their structural integrity and suitability for transferring and storing hazardous wastes and maintain certified statements attesting to same, in violation of 22 C.C.R. § 66265.192(a), (g) [*see also* 40 C.F.R. § 265.192].

## **COUNT II**

### **Failure to Maintain Records Regarding Compliance with Air Emission Standards (22 C.C.R. § 66265.1090)**

33. Paragraphs 1 through 22 above are incorporated herein by this reference as if they were set forth here in their entirety.
34. 22 C.C.R. § 66265.1090 requires owners or operators of hazardous tank systems to record and maintain information regarding design and operations of air emission control equipment and any waste determination exempting tank systems from air emission standards, if applicable [*see also* 40 C.F.R. § 265.1090].
35. After EPA's October 22, 2019 inspection, the EPA Inspector reviewed maintenance records for USTs 92, 93, and 94 at the Montebello Facility between 2015 and 2019.
36. EPA's review of the Montebello Facility records indicated that the Montebello Facility failed to record and maintain information regarding design and operation of air emission control equipment and any applicable waste determinations exempting USTs 92, 93, and 94 from air emission standards between 2015 and 2019.
37. Therefore, EPA alleges that Respondent failed to record and maintain information regarding design and operation of air emission control equipment and any applicable waste determinations, in violation of 22 C.C.R. § 66265.1090 [*see also* 40 C.F.R. § 265.1090].

## **E. CIVIL PENALTY**

38. The Complainant proposes that Respondent be assessed, and Respondent agrees to pay ONE HUNDRED THIRTY-TWO THOUSAND SIX HUNDRED AND SEVENTY-SIX DOLLARS (\$132,676) as the civil penalty for the violations alleged herein.
39. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), including the following: the seriousness of the violation and any good faith efforts to

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comply with applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's "June 2003 RCRA Civil Penalty Policy," and adjusted for inflation in accordance with the Civil Monetary Inflation Adjustment Rule, 40 C.F.R. Part 19.

**F. ADMISSIONS AND WAIVERS OF RIGHTS**

40. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CA/FO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in this CA/FO; (iii) consents to any and all conditions specified in this CA/FO and to the assessment of the civil administrative penalty under Section E of this CA/FO; (iv) waives any right to contest the allegations contained in Section C of the CA/FO; and (v) waives the right to appeal the proposed final order attached to this Consent Agreement and made part of this CA/FO.

**G. PARTIES BOUND**

41. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until the civil penalty required under Section E has been paid in accordance with Section H. When that matter is concluded, this CA/FO shall terminate and constitute full settlement of civil penalty liability for the violations alleged herein.
42. No change in ownership relating to the Montebello Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
43. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into this CA/FO, to execute it and to legally bind Respondent to it.

**H. PAYMENT OF CIVIL PENALTY**

44. Respondent consents to the assessment of and agrees to pay a civil penalty of ONE HUNDRED THIRTY-TWO THOUSAND SIX HUNDRED AND SEVENTY-SIX DOLLARS (\$132,676) in full and final settlement of the federal civil penalty claims set forth in this CA/FO.
45. Respondent shall submit payment of ONE HUNDRED THIRTY-TWO THOUSAND SIX HUNDRED AND SEVENTY-SIX DOLLARS (\$132,676) within thirty (30) calendar days of the Effective Date of this CA/FO, in accordance with one of the options set forth below. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. All payments

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shall indicate the name of the Facility, the Respondent's name and address, and the EPA docket number of this action.

Regular Mail:

Payment shall be made by certified or cashier's check payable to "Treasurer, United States of America," and sent as follows:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

Overnight Mail:

Payment shall be made by certified or cashier's check payable to "Treasurer, United States of America," and sent as follows:

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101  
Contact: Craig Steffen (513) 487-2091

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Beneficiary: US Environmental Protection Agency

\*Note: Foreign banks **must** use a United States Bank to send a wire transfer to the US EPA.

ACH (also known as REX or remittance express):

US Treasury REX/Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury Facility:  
5700 Rivertech Court



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Riverdale, MD 20737  
Remittance Express (REX): 1-866-234-5681

**On Line Payment:**

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments.

This payment option can be accessed from the information below:

[www.pay.gov](http://www.pay.gov)

Enter "sfo1.1" in the search field

Open form and complete required fields

**If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at 513-487-2091.**

46. At the time payment is made, Respondent shall send a PDF copy of the notification that the payment has been made by one of the methods listed above including proof of the date payment was made, to the following email addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region 9  
R9HearingClerk@epa.gov

And to:

Sharon Lin  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency - Region 9  
Lin.Sharon@epa.gov

47. Each payment must be received by the due date set forth in this CA/FO to avoid additional charges. If payment is not received by the due date, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. In addition, a 6% per annum penalty assessed monthly will further apply on any principal amount not paid within ninety (90) calendar days of its due date. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.
48. The penalties specified in this CA/FO shall represent civil penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state, or local taxation purposes.



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**I. DELAY IN PERFORMANCE/STIPULATED PENALTIES**

49. In the event Respondent fails to submit a payment to EPA by the time required in this CA/FO, Respondent shall pay stipulated penalties up to: FIVE HUNDRED DOLLARS (\$500) per day for first to fifteenth day of delay; ONE THOUSAND DOLLARS (\$1,000) per day for sixteenth to thirtieth day of delay; and ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500) per day for each day of delay thereafter. Compliance by Respondent shall include completion of any activity under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.
50. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt by Respondent of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. §13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.
51. All penalties shall be made payable by certified or cashier's check to "Treasurer of the United States" and shall be remitted as described in Paragraph 45.
52. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.
53. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

**J. CERTIFICATION OF COMPLIANCE**

54. By executing this CA/FO, Respondent certifies to the best of its knowledge that Respondent is currently in compliance with 22 CCR § 66265.192 and 22 CCR § 66265.1090 that formed the basis for the violations alleged in Section D, above.

**K. RESERVATION OF RIGHTS**

55. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 3008 of RCRA, 42 U.S.C. § 6928. This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or

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criminal, which EPA has under RCRA, or any other statutory, regulatory or common law enforcement authority of the United States. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

56. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, State or federal laws and regulations.
57. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as they relate to Respondent's liability for federal civil penalties for the alleged violations and facts as set forth in Section D of this CA/FO.
58. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any required local, State or federal permits.

**L. OTHER CLAIMS**

59. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

**M. MISCELLANEOUS**

60. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
61. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
62. Each party to this action shall bear its own costs and attorneys' fees.
63. EPA and Respondent consent to entry of this CA/FO without further notice.

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**N. EFFECTIVE DATE**

64. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the Final Order contained in this CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

IT IS SO AGREED.

FOR RESPONDENT CHEVRON U.S.A. INC., A PENNSYLVANIA CORPORATION,  
THROUGH ITS DIVISION CHEVRON PRODUCTS COMPANY:

DocuSigned by:  
  
909F8DD3C923449...  
Gina K. Lee, Assitant Secretary  
2021-Jun-28 | 11:49 AM PDT

FOR COMPLAINANT U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 9:

**AMY MILLER-  
BOWEN** Digitally signed by AMY  
MILLER-BOWEN  
Date: 2021.07.01 12:15:48  
-07'00'

Amy C. Miller-Bowen, Director  
Enforcement and Compliance Assurance Division

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FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA 09-2021-0037) be entered and that Respondent shall pay a civil penalty of ONE HUNDRED THIRTY-TWO THOUSAND SIX HUNDRED AND SEVENTY-SIX DOLLARS (\$132,676), and comply with the terms of this CA/FO.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

**STEVEN JAWGIEL**

Digitally signed by STEVEN  
JAWGIEL

Date: 2021.07.15 08:03:45 -07'00'

\_\_\_\_\_  
Date

\_\_\_\_\_  
Steven L. Jawgiel  
Regional Judicial Officer  
United States Environmental Protection Agency,  
Region 9

CERTIFICATE OF SERVICE

This is to certify that the original of the fully executed Consent Agreement and Final Order in the matter of **Chevron U.S.A. Inc., a Pennsylvania Corporation, through its division Chevron Products Company (Docket #: RCRA-09-2021-0037)** was filed with the Regional Hearing Clerk and that a true and correct copy of the same was sent by electronic mail to the following parties:

FOR RESPONDENT:

Tam Bui  
SoCAL Operations Manager  
Integrated Supply Chain West Region  
Chevron U.S.A. Inc.  
601 S. Vail Avenue  
Montebello, CA 90640  
TamBui@chevron.com

Diana Pfeffer Martin  
Hogan Lovells US LLP  
1999 Avenue of the Stars  
Suite 1400  
Los Angeles, CA 90067  
diana.martin@hoganlovells.com

FOR COMPLAINANT:

David Kim  
Assistant Regional Counsel  
U.S. EPA, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105  
Kim.David@epa.gov

Armsey, Steven  
Digitally signed by  
Armsey, Steven  
Date: 2021.07.16  
16:25:10 -07'00'

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Steven Armsey  
Regional Hearing Clerk

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Date